

supported by the savings association's position, the risk-based capital requirement is limited to the savings association's contractual exposure less any recourse liability account established in accordance with GAAP. This limitation does not apply when a Federal savings association provides credit enhancement beyond any contractual obligation to support assets it has sold.

(ii) *Mortgage-related securities or participation certificates retained in a mortgage loan swap.* If a Federal savings association holds a mortgage-related security or a participation certificate as a result of a mortgage loan swap with recourse, it must hold risk-based capital to support the recourse obligation and that percentage of the mortgage-related security or participation certificate that is not covered by the recourse obligation. The total amount of risk-based capital required for the security (or certificate) and the recourse obligation is limited to the risk-based capital requirement for the underlying loans, calculated as if the savings association continued to hold these loans as an on-balance sheet asset.

(iii) *Related on-balance sheet assets.* If an asset is included in the calculation of the risk-based capital requirement under this paragraph (b) and also appears as an asset on the savings association's balance sheet, the savings association must risk-weight the asset only under this paragraph (b), except in the case of loan servicing assets and similar arrangements with embedded recourse obligations or direct credit substitutes. In that case, the savings association must separately risk-weight the on-balance sheet servicing asset and the related recourse obligations and direct credit substitutes under this section, and incorporate these amounts into the risk-based capital calculation.

(8) *Obligations of subsidiaries.* If a Federal savings association retains a recourse obligation or assumes a direct credit substitute on the obligation of a subsidiary that is not an includable subsidiary, and the recourse obligation or direct credit substitute is an equity or debt investment in that subsidiary under GAAP, the face amount of the recourse obligation or direct credit substitute is deducted for capital under

§§167.5(a)(2) and 167.9(c). All other recourse obligations and direct credit substitutes retained or assumed by a Federal savings association on the obligations of an entity in which the savings association has an equity investment are risk-weighted in accordance with this paragraph (b).

#### § 167.8 Leverage ratio.

(a) The minimum leverage capital requirement for a Federal savings association assigned a composite rating of 1, as defined in §116.3 of this chapter, shall consist of a ratio of core capital to adjusted total assets of 3 percent. These generally are strong associations that are not anticipating or experiencing significant growth and have well-diversified risks, including no undue interest rate risk exposure, excellent asset quality, high liquidity, and good earnings.

(b) For all Federal savings associations not meeting the conditions set forth in paragraph (a) of this section, the minimum leverage capital requirement shall consist of a ratio of core capital to adjusted total assets of 4 percent. Higher capital ratios may be required if warranted by the particular circumstances or risk profiles of an individual Federal savings association. In all cases, Federal savings associations should hold capital commensurate with the level and nature of all risks, including the volume and severity of problem loans, to which they are exposed.

#### § 167.9 Tangible capital requirement.

(a) Federal savings associations shall have and maintain tangible capital in an amount equal to at least 1.5% of adjusted total assets.

(b) The following elements, less the amount of any deductions pursuant to paragraph (c) of this section, comprise a Federal savings association's tangible capital:

(1) Common stockholders' equity (including retained earnings);

(2) Noncumulative perpetual preferred stock and related earnings;

(3) Nonwithdrawable accounts and pledged deposits that would qualify as core capital under §167.5 of this part; and